Supreme Court, U. S.
FILED
MAR 25 1980
MICHAEL RODAK, JR., CLERK

79-1495

IN THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

OCTOBER TERM 1979
NO. _____

Earl L. Sappington, CPA, Appellant
v.
Paul R. Beckert, President Judge, Et Al.,
Appellees

APPEAL
FROM THE SUPREME COURT OF PENNSYLVANIA
EASTERM DISTRICT, PHILADELPHIA, PA. 19102

JURISDICTIONAL STATEMENT

APPELLANT REPRESENTING SELF:

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055

REPRESENTING APPELLEES:
Kathleen M. Quinn, Esquire
Administrative Office Of Pennsylvania Courts
1414 Three Penn Center Plaza
Philadelphia, Pa. 19102

Edwin N. Popkin, Esquire
Begley, Carlin, Mandio & Popkin
120 Mill Street
Bristol, Pa. 19007

TABLE OF CONTENTS

	PAGE
I. Opening Statement and Opinion Below	1
II. Jurisdiction	1
1. Grounds	1
(a) Laws Under Which Appeal Taken	1
(b) Reference to Case No. 79-251	2
(c) Quotation of Section 1343, and	3
Part of Section 1257, 28 USCA	4
(d) Reference to Supreme Ct. of U.S. and	6
Denials of Superior Ct. of Pa.	6
(e) Jurisdiction of Supreme Ct. of U.S.	7
(f) Quotations of Sections 1983, 1985,	8
and 1986, 42 U.S.C.	9
III. Questions Presented	10
IV. Statement of Case	11
1. Facts of Case	11
(a) Judge Beckert's Actions	11
(b) Case Immobile	12
(c) Judge Beckert Ignored Procedures	12
(d) Defendant, No Intention to Develop Case	12
(e) Strong Presumption of Political and Fraternal Considerations	13
(f) Other Defendants Equally Guilty	13
2. Reproduced Judge Luongo's Memorandum and Order, and Comment	13
3. Summary of Judge Luongo's Proceedings	14

	PAGE
4. Content of Appendix	15
5. Procedure in Superior Ct. of Pa.	15
and Supreme Court of Pennsylvania	16
V. CONCLUSION.	16
1. Federal Questions Substantial	16
2. Constitution in Shambles	17
3. Supreme Court Options	17
4. Relief Requested	18
AFFIDAVIT OF SERVICE	19

TABLE OF CASES

Bradley v. Fisher, 13 Wallace 335 (1872)	2, 8,17
Monell v. Department of Social Services of City of New York, 436 U.S. 658 (1978)	8
Pierson v. Ray, 386 U.S. 547 (1967)	2, 8
Querne v. Jordan, 47 L.W. 4241, Slip Opinion (1979	8
Stump v. Sparkman, 435 U.S. 349 (1978)	2, 8, C-2
Tenney v. Brandhove, 341 U.S. 367 (1951)	8

APPENDIX

A.	Supreme Court (and Superior Ct.) of Pa.	A-1
B.	Supreme Court of U.S. Denials 79-251	B-1
C.	Judge Luongo's Memorandum	C-1
	Judge Luongo's Order	C-2
D.	Notice Of Appeal To Supreme Ct.of U.S.	D-1
	Proof Of Service Of Notice of Appeal	D-2

IN THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

OCTOBER TERM 1979
No. _____

Earl L. Sappington, CPA, Plaintiff-Appellant
versus
Paul R. Beckert, President Judge, Et Al.,
Defendants-Appellees

JURISDICTIONAL STATEMENT

I. OPENING STATEMENT AND OPINION BELOW.
Earl L. Sappington, plaintiff-appellant, appeals from the final order of the Supreme Court of Pennsylvania, dated February 29, 1980, of which the Prothonotary notified plaintiff-appellant by letter dated March 3, 1980. The body of the letter follows:

"This is to advise you that on February 29, 1980, the Supreme Court entered its order denying your Petition for Allowance of Appeal, filed on the above-captioned matter". (Appendix A).

II. JURISDICTION.

1. Grounds.

(a) Appeal is taken under Sections 1257 and 1343, 28 U.S.C.A. Notice of Appeal to the Supreme Court of the United States was filed on March 7, 1980, in the Supreme Court of Pennsylvania. (Appendix D). This denial of appeal, in effect, questions the validity of the Civil Rights Act of

1871, codified as Sections 1983, 1985 and 1986, 42, U.S.C. (the statutes under which the original action was brought), as opposed to the gratuitous authority (to act in a crimnal fashion against any party before his bench) given judges by the Supreme Court of the United States in Bradley v. Fisher, 13 Wallace 335 (1872), and spelled out shockingly in Pierson v. Ray, 386 U.S. 547 (1967), and more recently in Stump v. Sparkman, 435 U.S. 349 (1978), illegally resurecting from the dead an old common law.

(b) If these statements sound familiar, the Court has seen them before, in Case No. 79-251, but has not heard them. The Court refused to hear, "...for want of jurisdiction" on October 9, 1979, and "...for want of a substantial federal question" on November 13, 1979. (Appendix B). Case No. 79-251 was an appeal from the final order of the United States District Court for the Eastern District of Pennsylvania, Case No. CA 79-1758. The final order on July 10, 1979 dismissed the action, as explained by the Court's accompanying Memorandum, on the grounds of "... judicial immunity. Stump v. Sparkman, 435 U.S. 349 (1978), and said, "...as for the charge of conspiracy, private persons cannot conspire, within the meaning of the civil rights statute, with a state official entitled to immunity..."

(Appendix C). Incorporated herein are the "Jurisdictional Statement" and "Petition For Rehearing Of Judgment Not To Hear Case" of No. 79-251.

(c) Section 1343, 28 U.S.C.A. quoted verbatim:

"The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) To recover damages or to secure equitable

or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote...".

(5) Section 1257, 28 U.S.C.A., quoted in part:

"Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity."

Though Section 1343, 28 U.S.C.A. gives <u>original</u> jurisdiction in civil rights cases under Sections 1983, 1985 and 1986, 42 U.S.C. to the federal courts, the denial of this Petition by the Supreme Court of Pennsylvania, in effect, denies the validity of, and denies any responsibility of the Pennsylvania courts to enforce these federal civil rights statutes, which are the law of the land.

To plaintiff-appellant's knowledge, the federal district nor any other court has ever certified this case to the Attorney General, but <u>definitely</u> "the constitutionality of any Act of Congress affecting the public interest is drawn in question" (Section 2403, 28 US.C.A.) applies here. So, despite a letter from the Office of the Solicitor

General, dated March 5, 1980, stating in the main body as follows:

"This office has no authority to act in the matter to which you referred (an October 13, 1979 request for help in getting this case heard). If you are in need of legal help, perhaps you could contact your legal aid society, lawyers' referral service, or the local bar association";

yes, despite this, plaintiff-appellant shall continue to follow the requirements of Section 2403, and keep the Solicitor General informed of this action.

Is it possible that a lay citizen alone can't get anywhere in our system of jurisprudence, even though he has taken the time to learn the law and the court procedures, and may even have superior reasoning powers? That would be the ultimate in court arrogance, and very contrary to the basic principles of our Peoples' government. But that does seem to be the general impression in the minds of Americans today. You hear it on radio and television legal discussions, and plaintiff-appellant has heard it repeatedly all up and down the line; from his Representatives in Congress and state legislature, both lawyers and non-lawyers, and from many others. Even the Clerks of Courts are afraid to tell you too much about court procedures for fear of being accused of "practicing law without

a license". The whole country is "buffaloed" by the legal profession. Plaintiff-appellant suggests we attack this monopolistic practice, and get our courts off their "throne" to where they can deal justly with common citizens of the United States. The whole legal system needs a good audit, to bring it up to date and in line with our basic principles. This Court can help -- starting now.

(d) When the Supreme Court of the United States, despite Section 1343, 28 USCA, refused to hear appellant's former appeal "...for want of jurisdiction", and then, "...for want of a substantial federal question", the "reasoning" was very unclear. Plaintiff-appellant was completely cut-off from justice in the federal courts. But there remained the state courts. So, on December 10, 1979, appellant filed his complaint in the Superior Court of Pennsylvania, which, taking its cue from the Supreme Court of the United States, issued its puzzling order of January 23, 1980:

"AND NOW, this 23rd day of January, 1980, the Complaint is dismissed for lack of jurisdiction in this Court". (Appendix A).

This, despite Rules 751 and 752, PaRAP, which instructs the courts to place the complaint in the proper court, rather than dismiss, if filed in the wrong state court. So, the Superior Court of

Pennsylvania seems to be saying that it does not accept secondary jurisdiction for something the original jurisdiction should have handled completely, but did not, even though the state courts too, are sworn to uphold federal laws, which are the law of the land.

So, the appellant still hasn't had his complaint heard on the merits. His case has been held up by prior statements of special privilege to judges by the Supreme Court of the United States, even though those statements are contradictory to federal law. If we are to be what we tell the world that we are: A "country of laws", and not subject to the arbitrariness of sovereign men, we must respect our laws, and interpret them by the rules of logic, one of which is to the effect that a correct interpretation of a proposition is an equivalent proposition only. If the "interpreting" proposition is otherwise, it has changed in meaning, and the words have become unstable. If the words of our laws have become unstable, our laws have have become subject to various interpretations, and we are back where we started: With arbitrary men governing citizens of the United States. Appellant is holding out for a straight course in human history, not a circular one.

(e) The jurisdiction of the Supreme Court of

the United States in the present appeal is firmly established. The following cases, however, have a direct bearing on jurisdiction, and all but Monell v. Department of Social Services are seriously flawed with illogical "interpretations" of federal laws:

Bradley v. Fisher, 13 Wallace 335 (1872)

Monell v. Department of Social Services of the City of New York, 436 U.S. 658 (1978)

Pierson v. Ray, 386 U.S. 547 (1967)

Querne v. Jordan, 47 L.W. 4241, Slip Opinion (1979)

Stump v. Sparkman, 435 U.S. 349 (1978)

Tenney v. Brandhove, 341 U.S. 367 (1951).

(f) The validity of the following federal statutes have been denied, in part, by the courts:

(1) Section 1983, 42 U.S.C.S.:

"Every person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress".

(2) Section 1985, 42 USCS, which is the con-

spiracy statute, states in paragraph (2) that it is (among other offenses) conspiracy and obstructing justice:

"...if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to equal protection of the laws".

(3) Section 1986, 42 USC, Action For Neglect To Prevent:

"Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in Section 1985 of this title, are about to be committed and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representative, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action;...".

III. QUESTIONS PRESENTED BY THIS APPEAL.

1. Does "Every person who..." in Sections 1983 and 1986 mean <u>every</u> person who, or should Congress have said "Every person, SIR..." to alert the elite that they were truly included in this most common of terms?

2. Do federal statutes, Sections 1983, 1985 and 1986, supersede and nullify conflicting common law?

3. Are judges immune to prosecution under Sections 1983, 1985 and 1986, 42 USC, for official acts contrary to law?

4. Can the judge blanket and protect his coconspirators with his immunity, if he has any?

5. Is a state a legal person within the meaning of the Civil Rights Act of 1871?

6. Does the 11th Amendment (1798), as <u>Court</u> constructed, defeat, by seniority or some other means, the 14th Amendment (1868) and its enforcement legislation, the Civil Rights Act of 1871?

7. Can the courts of Pennsylvania refuse jurisdiction in a case involving Sections 1983, 1985 and 1986, 42 USC, that has received only <u>sham</u> due process in the federal court system?

8. Pray tell who has jurisdiction over cases given original jurisdiction to the federal courts by Section 1343, 28 USCA, but denied

jurisdiction by the Supreme Court of the United States and refused by the Supreme Court of Pennsylvania?

(9) Is it true there is an understanding in the legal profession that a lay citizen, without a licensed and Court approved, legal counsel, cannot get anywhere in our system of jurisprudence, even though he knows the law and follows the rules of court?

IV. STATEMENT OF THE CASE.

1. Facts of the Case:

(a) Judge Beckert appeared to be so firm in his belief that he could do as he pleased (the Supreme Court of the United States had said it was legal) with the plaintiff-appellant with absolute impunity that nothing the appellant could do would get the judge to move the case along. The judge exhibited a determination that a CPA, representing himself in his court, after he had advised him by mail to get a lawyer, would be awarded nothing, nor would he get a dismissal that he could appeal. Judge Beckert's letter to appellant of January 9, 1978 follows:

"Your 'Request for Communication from the Court' has been docketed in the Prothonotary's office and has been forwarded to me.

"The best and only advice that I can give to you is to procure an attorney of your own choice

to represent you in the proceedings if you feel your case has any merit. You have not, in my opinion, complied with the applicable rule and therefore there is nothing before me to dispose of".

(b) This immobility became apparent after pursuing this small claim court judgment (awarded to appellant August 30, 1976) from September 13, 1976 (date of appeal by defendant, Lease-Lite Manufacturing Co.) to May 16, 1979, when plaintiff-appellant filed complaint in the United States District Court (about 2 years and 8 months later).

(c) Judge Beckert ignored several of his own court civil procedures (Pa. Rules of Civil Procedure No. 1035 and No. 126, and Bucks County RCP No. 266) while pointing to the appellant as the non-complier. Contrary to Rule 1035 (PaRCP) Judge Beckert, after Motion For Summary Judgment, made no attempt to find out if there were true issues to be tried (he knew there were none). He never called us together for any purpose. In fact, appellant has never seen Judge Beckert to know him. Nor did he make any demands on the defendant, Lease-Lite Mfg. Co., to develop its case, if any.

(d) As reported to the District Court (Paragraph 10 of "Memorandum In Opposition..."

in answer to three other defendants):

"10. There was ample evidence that defendants had no intention of trying to develop a case, even though it was the defendant who had appealed, on September 13, 1976, appellant's judgment of August 30, 1976. They knew that they had no hope of winning the case on its merits; so they stalled; and it would have worked to the complete frustration of the plaintiff had he had less resolve. The Bucks County Court Administrator was recently reported to have said that they have many cases that are in just such an inactive state".

(e) There is also strong presumptions of political and fraternal considerations here.

(f) The other named defendants-appellees went along with, and supported Judge Beckert in his farcical misrepresentations, in a bad-faith suit to begin with, to deprive appellant of his property (small claim court judgment) and other civil rights, thus making themselves liable under Sections 1983 (they also misrepresented civil procedures), 1985, 1986 and 1988, 42 USC.

2. Judge Luongo's Memorandum and final order appealed in Case No. 79-251:

(a) Although Sections 1983 and 1986, 42 USC, are addressed to "Every person who..." violates their provisions, and Section 1985 says, "...if two or more persons conspire...", Judge Luongo,

in his Memorandum, said that judges are immune to prosecution under these sections, and so are all other persons who violate the Act's provisions in conspiracy with a judge. To quote one sentence:

"As for the charge of conspiracy, private persons cannot conspire, within the meaning of the civil rights statute, with a state official entitled to immunity". (Appendix C).

(b) This would carry citizens of the United States away back to divine rights of Kings and their hired thugs. Those were also the days of the torture iron mask, the rack, the thumb screw, for debt collection, and most anything else, and even the iron chastity belt, for personality security of the male.

3. Summary of Proceedings in Judge Luongo's District Court of the United States:

(a) On May 16, 1979 appellant filed complaint in the United States District Court, invoking statutes 42 USCS Sections 1983, 1985(2), 1986 and 1988, and 28 USCA Sections 1331(a), 1342 and 1391(b).

(b) Appellant finally, with subpoena, secured certified copies of Docket Entries of Judge Beckert's "proceedings", showing numerous reckless, laconic denials of appellant's motions. This is part of the record.

(c) Defendants, in two groups, motioned to

dismiss, citing mainly the common law. Appellant opposed, using roughly the same arguments presented to this Court.

(d) Judge Luongo, citing case law, which accepted the common law over the cited federal statutes, dismissed the action against the defendants-appellees, saying:

"...it is ordered that defendants' Motions to Dismiss are GRANTED".

4. In the appendix is placed the denial of appeal (according to the Clerk) dated October 9, 1979, of the Supreme Court of the United States stating: "This appeal is dismissed for want of jurisdiction". Placed there also, is the letter from the Clerk dated November 13, 1979 stating: "The Court today denied the Petition for Rehearing in the above-entitled case...". Placed also in Appendix B is the order to the District Court dated November 13, 1979, stating: "...dismissed for the want of a substantial federal question". Placed in Appendix A are the final letters from the Superior Court of Pennsylvania and the Supreme Court of Pennsylvania. Plaintiff-appellant's Notice of Appeal To The Supreme Court of the United States is reproduced in Appendix D.

5. The Complaint was filed on December 10, 1979 in the Superior Court of Pennsylvania,Case No. 47 Misc. Dkt. 12, and on January 2, 1980

(mistakingly dated 1979), plaintiff-appellant filed in Superior Court his "Answer To "Preliminary Objections Of Defendant Beckert' And Any Other Defendant Who Belatedly Responds". On January 24, 1980 appellant filed a "Praecipe For Judgment Upon Default Against Defendants Represented By Attorney Edwin N. Popkin", and on January 28, 1980 filed "Request For Admissions" for Judge Beckert. Both were returned by the Prothonotary referring to the order of the Superior Court dated January 23, 1980, the statement of which accompanied the return of one document on January 29, 1980.

"Petition For Allowance Of Appeal" was filed on January 31, 1980 in the Supreme Court of Pennsylvania, Case No. 109 E.D. Misc. Dkt. 1980. The Supreme Court of Pennsylvania on February 29, 1980 filed its order denying the "Petition For Allowance Of Appeal" (Appendix A).

Appellant's "Notice Of Appeal To The Supreme Court Of The United States" was filed on March 7, 1980 in the Supreme Court of Pennsylvania. (Appendix D).

V. CONCLUSION.

1. The questions raised here are absolutely basic to the meaning of our democratic republic, and to the separation of powers between the executive, the legislative, and the judicial branches

of our government. These questions presented, therefore, are so substantial as to require immediate plenary consideration, with briefs on the merits and oral argument for their resolution. Unless, however, the Court thinks it has already disqualified itself to answer these questions. It is like asking a king to voluntarily give up his century old, usurped crown.

2. The Supreme Court of the United States stands accused of making a shambles of the Constitution and federal statutes by ignoring the rules of logic when "interpreting" them. Specifically, reference is to the decision, Bradley v. Fisher, supra (which contradicts a federal statute, the Civil Rights Act of 1871), and those that followed on similar questions; and the insertion into the 11th Amendment the language that it applies to citizens suing their own state; and, in effect, that the 11th Amendment supersedes the contradictions in the 14th Amendment.

3. The Supreme Court of the United States has the options of (1) agreeing with the appellant, or (2) summarily dismissing him again (if the Court is truly sovereign), or (3) telling the world, with a straight face, that judges can legally commit crimes against parties from the bench in the United States of America, as long as the cases before them are within their jurisdiction.

(4) There is a final option, which seems to be a common practice of the judges today; that is to sit on it forever, thus avoiding any decision.

4. Please answer (in terms of the law, not prior decisions) all questions raised, to make it possible for one of the jurisdictions to hear this case on the merits.

Respectfully submitted,

Plaintiff-Appellant: Earl L. Sappington Pro Se

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055
(215) 949-2162

Addendum: Plaintiff-Appellant's Proof of Service is on the following page.

AFFIDAVIT OF SERVICE

Earl L. Sappington, being duly sworn according to law (No. 33(c), Rules Of The Supreme Court) deposes and says that he, being the plaintiff-appellant in the above-captioned matter, has served three true and correct copies each of this "Appeal From The Supreme Court Of Pennsylvania..." to all parties required to be served (with the exception of Stephen R. LaHoda, Esq., who has been reported as deceased), namely, the following attorneys representing the defendants-appellees, and to U. S. Solicitor General, pursuant to 28 U.S.C.A. § 2403. Service was made by certified mail on March 20, 1980:

Kathleen M. Quinn, Esquire
Administrative Office of Pennsylvania Courts
1414 Three Penn Center Plaza
Philadelphia, Pa. 19102
Certificate No. 946806

Edwin N. Popkin, Esquire
Begley, Carlin, Mandio & Popkin
120 Mill Street
Bristol, Pa. 19007
Certificate No. 946807

Hon. Wade H McCree, Jr.
Solicitor General
U. S. Department Of Justice
Washington, D. C. 20530
Certificate No. 946808

Plaintiff-Appellant: Earl L. Sappington Pro Se

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055
(215) 949-2162

Bucks County, Pa.
Sworn to and subscribed before me
this 24 day of March, 1980

Florence S. Kinney

FLORENCE S. KINNEY, NOTARY PUBLIC
BRISTOL TOWNSHIP, BUCKS COUNTY
MY COMMISSION EXPIRES JUNE 22, 1981
Member, Pennsylvania Association of Notaries

APPENDIX A

Supreme Court Of Pennsylvania, Eastern District
No. 109 E. D. Misc. Docket, 1980 , March 3, 1980

"This is to advise you that on February 29, 1980, the Supreme Court entered its Order denying your Petition for Allowance of Appeal, filed in the above-captioned matter."

Superior Court Of Pennsylvania
No. 47 Miscellaneous Docket No. 12 , Jan. 28, 1980

"AND NOW, this 23rd day of January, 1980, the Complaint is dismissed for lack of jurisdiction in this Court.

" s/ Per Curiam'"

APPENDIX B

Supreme Court of the United States, Office of the Clerk. November 13, 1979

No. 70-251

"The Court today denied the petition for rehearing in the above-entitled case.

"Mr. Justice Marshall took no part in the consideration or decision of this petition."

Supreme Court of the United States

No. 79-251 . (Filed in U.S. District Court 11-15-79

"Appeal from the United States District Court for the Eastern District of Pennsylvania.

"This Cause having been submitted on the statement of jurisdiction and motion to dismiss,

"ON CONSIDERATION WHEREOF, it is ordered by this Court that the appeal herein be, and it is hereby, dismissed for the want of a substantial federal question.

"October 9, 1979

"A true copy MICHAEL RODAK, JR.
Test:
"Clerk of the Supreme Court of the United States certified this 13th Day of November 1979
By S/ Francis J. Larson
Deputy"

Letter from the Clerk, Supreme Court of the U.S. No. 79-251, October 9, 1979:
"The appeal is dismissed for want of jurisdiction."

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EARL L. SAPPINGTON, CPA
V
PAUL R. BECKERT, President Judge
Court of Common Pleas of
Bucks County, Pennsylvania — Filed July 10, 1979

LEASE-LITE MANUFACTURING CO.
LEONARD MYELLE, General Partner

Stephen R. LaHoda, Esquire,
Lease-Lite Attorney (First)

JAMES J. AUCHINLECK, JR., ESQUIRE
Lease-Lite Attorney (Second in Succession)

THOMAS R. HECKER, ESQUIRE,
Lease-Lite Attorney (Third in Succession) — No. 79-1758

MEMORANDUM

LUONGO, J. — July 10, 1979

This is a suit seeking damages for alleged violation of plaintiff's rights emanating from proceedings in a state court. The defendants are Paul R. Beckert, Judge of the Court of Common Pleas of Bucks County; Lease-Lite Manufacturing Co., and Leonard Myelle, its general partner whom plaintiff had sued in Small Claims Court amd who appealed an adverse ruling to the Court of Common Pleas; and three attorneys who successively represented Lease-Lite and Myelle.

All defendants have moved to dismiss. Their motions will be granted. Judge Beckert is

entitled to dismissal on the ground of judicial immunity. Stump v. Sparkman, 435 U.S. 349 U.S. (1978). The other defendants clearly did not act under "color of law", within the meaning of the Civil Rights Acts. Myer v. Curran, 397 F. Supp. 512, 518 (E. D. Pa. 1975); Kovacs v. Goodman, 383 F. Supp. 507, 509 (E. D. Pa. 1974), aff'd, 515 F. 2d 507 (3rd Cir. 1975).

As for the charge of conspiracy, private persons cannot conspire, within the meaning of the civil rights statute, with a state official entitled to immunity. Myer v. Curran, supra at 519 (collecting cases). Here the only state official with whom the other defendants allegedly conspired was Judge Beckert, who was protected by judicial immunity and the charge of conspiracy must likewise fall.

S/ Alfred L. Luongo
J.

****

ORDER

This 10th day of July, 1979, it is ORDERED that defendants' Motions to Dismiss are GRANTED.

S/ Alfred L. Luongo
J.

APPENDIX D

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT, PHILADELPHIA, PA. 19107

January Term, 1980
No. 109 E.D. Misc. Dkt. 1980

Earl L. Sappington, CPA, Plaintiff-Appellant
v.
Paul R. Beckert, President Judge, Court of Common Pleas of Bucks County, Pa., Et Al., Defendants-Appellees

NOTICE OF APPEAL
TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Earl L. Sappington CPA, plaintiff-appellant in the above-named action hereby appeals to the Supreme Court of the United States from the final order of the Supreme Court of Pennsylvania, dated February 29, 1980 "...denying your Petition for Allowance of Appeal..."

1. This appeal is taken under the authority of Sections 1257 and 1343 of 28 U.S.C.A.

2. Though Section 1343, 28 U.S.C.A. gives original jurisdiction in civil rights cases under Sections 1983, 1985 and 1986, 42 U.S.C. to the federal courts, the denial of this Petition by the Supreme Court of Pennsylvania, in effect, denies the validity of, and denies any responsibility of Pennsylvania courts to enforce these federal civil rights statutes, which are the law of the land.

Plaintiff-Appellant Earl L. Sappington Pro Se

Date: March 7, 1980

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055
(215) 949-2162

Addendum: Appellant's Proof Of Service is on the following page.

No. 109 E.D. Misc. Dkt. 1980

PROOF OF SERVICE

Earl L. Sappington, plaintiff-appellant in the above-captioned matter, hereby certifies that a true and correct copy of the within "Notice Of Appeal To The Supreme Court Of The United States" was sent by certified mail to the following defendants-appellees' attorneys on March 7, 1980:

Kathleen M. Quinn, Esquire
Administrative Office of Pennsylvania Courts
1414 Three Penn Center Plaza
Philadelphia, Pa. 19102
Certified Mail No. 946804

Edwin N. Popkin, Esquire
Begley, Carlin, Mandio & Popkin
120 Mill Street
Bristol, Pa. 19007
Certified Mail No. 946805

Note: Stephen R. LaHoda, Esquire, is assumed to be deceased, as reported by the Federal Marshal on 5-16-79: "This man deceased a year and a half". The current complaint was returned marked, "Moved, Not Forwardable".

Plaintiff-Appellant: _____ Pro Se

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055
(215) 949-2162